



Montoya, Darlene <dmontoya@nmag.gov>

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## RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

5 messages

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: geden7@cabq.gov

Mon, Dec 19, 2016 at 1:44 PM

Chief:

Attached please find correspondence from the Law Enforcement Board Subcommittee regarding the above-referenced matter.

If you have any questions or concerns, please do not hesitate to contact me. Thank you.

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—  
Darlene Montoya, Administrator  
New Mexico Attorney General's Office  
408 Galisteo Street  
Santa Fe, New Mexico 87501  
[\(505\) 490-4854](#)

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**Eden, Gorden** <geden7@cabq.gov>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>  
Cc: "Jacobi, Jenica L" <jjacobi@cabq.gov>, "Huntsman, Robert Y." <RHuntsman@cabq.gov>

Mon, Jan 9, 2017 at 11:50 AM

Darlene,

I hope you are doing well. Our newest policies are in a six month review and revision process. The content and intent in these policies are written into the City of ABQ Settlement Agreement with the US Department of Justice. The Settlement Agreement acknowledges the 2014 Memorandum of Agreement between the NMSP, APD, Bernalillo County Sheriffs Department, Rio Rancho Police Department and the 2nd Judicial District Attorney.

As a result of the Settlement Agreement, APD created a new investigative unit that investigates APD's critical firearm discharges including officer involved shootings.

Next week I will assemble the information you requested.

Best wishes,

**Gorden E. Eden, Jr.**  
**Chief of Police**  
**Albuquerque Police Department**

*The mission of the Albuquerque Police Department is to preserve the peace and protect our community through community oriented policing, with fairness, integrity, pride and respect.*

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: "Eden, Gorden" <geden7@cabq.gov>

Mon, Jan 9, 2017 at 2:12 PM

Thank you so much for your response. I am doing well. Hope all is well with you and yours.  
[Quoted text hidden]

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: "Eden, Gorden" <geden7@cabq.gov>

Tue, Jan 31, 2017 at 2:37 PM

Hi Chief:

To date, I have not received anything regarding the Officer Involved Shootings and Use of Force Policies. I do not know if someone might have mailed them, but could you possibly have them scanned and emailed to me.

Thank you.

[Quoted text hidden]

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**Eden, Gorden** <geden7@cabq.gov>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>  
Cc: "Huntsman, Robert Y." <RHuntsman@cabq.gov>

Wed, Feb 1, 2017 at 8:08 AM

Darlene,

I have enclosed the two documents that APD used to develop its policies and its response to OIS. The Court Approved Settlement Agreement (CASA) was the foundation to develop these policies and the CASA was developed by the USDOJ Office of Civil Rights and City of Albuquerque SME's.

All policies related to the Use of Force, Force Investigations and Officer Involved Shootings investigations have been approved for submission to the Monitor by USDOJ OCR, USAO, APOA, CoA. The Monitor approved these policies in 01/2016.

All of APD's policies are on our web page:

<http://apdsop.tripod.com/general-orders/index.htm>

<http://apdsop.tripod.com/procedural-orders-manual/index.htm>

<http://apdsop.tripod.com/admin-orders/admin-index.html>

**Gorden E. Eden, Jr.**

**Chief of Police**

**Albuquerque Police Department**

400 Roma, NW

Albuquerque, NM 87102 USA



***The mission of the Albuquerque Police Department is to preserve the peace and protect our community through community oriented policing, with fairness, integrity, pride and respect.***

**From:** Montoya, Darlene [mailto:[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)]

**Sent:** Tuesday, January 31, 2017 2:38 PM

**To:** Eden, Gorden

**Subject:** Re: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

Hi Chief:

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On Mon, Jan 9, 2017 at 11:50 AM, Eden, Gorden <[geden7@cabq.gov](mailto:geden7@cabq.gov)> wrote:

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**Albuquerque Police Department**

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On Dec 19, 2016, at 3:44 PM, Montoya, Darlene <[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)> wrote:

Chief:

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If you have any questions or concerns, please do not hesitate to contact me. Thank you.



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Darlene Montoya, Administrator

New Mexico Attorney General's Office

408 Galisteo Street

Santa Fe, New Mexico 87501

(505) 490-4854

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New Mexico Attorney General's Office  
408 Galisteo Street  
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**MEMORANDUM OF AGREEMENT**

Between the  
NEW MEXICO DEPARTMENT OF PUBLIC SAFETY  
And the  
BERNALILLO COUNTY SHERIFF'S OFFICE  
And the  
ALBUQUERQUE POLICE DEPARTMENT  
And the  
RIO RANCHO POLICE DEPARTMENT

This Memorandum of Agreement (MOA), dated 10/8, 2014, is made and entered into and agreed to by and between the New Mexico Department of Public Safety, the Bernalillo County Sheriff's Office, the Albuquerque Police Department and the Rio Rancho Police Department.

**WHEREAS** pursuant to 29-2-18, NMSA 1978, the chief and other members of the New Mexico State Police, who, when duly commissioned and sworn under the provisions of Sections 29-2-1 through 29-2-29, NMSA 1978, shall have the following powers and shall perform the following duties:

1. They shall be conservators of the peace within the state, with full power to apprehend, arrest and bring before the proper court all law violators within the state;
2. Upon request of any officer or agency of the state, charged with the duty of enforcing any law of the state, made to the Secretary of Public Safety, one or more members of the New Mexico state police may be temporarily designated specifically to enforce the provisions of such law; and

**WHEREAS** pursuant to 4-41-2, NMSA 1978, the Bernalillo County Sheriffs shall have the following powers and shall perform the following duties:

1. They shall be the conservators of the peace within the county;
2. They shall suppress assaults and batteries;
3. They shall apprehend and commit to jail, all felons and traitors, and cause all offenders to keep the peace and to appear at the next term of the court and answer such charges as may be preferred against them, and

**WHEREAS** pursuant to 35-15-4, NMSA 1978, the Bernalillo County Sheriff's Office, the Albuquerque Police Department and the Rio Rancho Police Department may serve any process or make any arrests authorized to be made by any city or town officer; and

**WHEREAS** pursuant to 3-13-2, NMSA 1978, the Albuquerque Police Department and the Rio Rancho Police Department shall apprehend any person in the act of violating the laws of the State or the ordinances of the municipality and bring him before competent authority for examination and trial. In the discharge of proper duties, the Albuquerque Police Department and the Rio Rancho Police Department shall have the same powers and be subject to the same responsibilities as sheriffs in similar cases;

**WHEREAS** the above referenced public agencies desire to enter into this MOA to exercise their common power pursuant to NMSA 1978, Section 29-1-1 to investigate all violations of the criminal laws of the state which are called to the attention of any officer or of which the officer is aware, to diligently file a complaint or information, if the circumstances are such as to indicate to a reasonably prudent person that such action should be taken, and to cooperate with and assist the attorney general, district attorney or other prosecutor, if any, in all reasonable ways.

THEREFORE the parties hereby agree as follows:

**1. SCOPE OF WORK:**

- A. The purpose of this MOA is to establish a formal protocol among the above named law enforcement agencies for the following types of investigations:
  - 1) Officer-Involved Shooting
  - 2) Other Serious Use of Force
  - 3) In Custody Death
- B. A multi-agency Task Force, with representatives from each of the law enforcement agencies subject to this agreement, is hereby created to investigate the aforementioned situations. Each member of this task force, including supervisors, must have a minimum of three years police experience to include one year of felony crime investigative experience.
- C. The parties also agree that this multi-agency Task Force, or an agency identified herein, may be requested by the head of one of the other agencies to this agreement, or a designee, to investigate any other officer-involved suspected criminal action including, but not limited to, off-duty or non-duty related incidents.
- D. A single agency will be designated as the "Lead Agency" in a particular investigation, with the other agencies providing investigative support and supplemental assistance in the investigative effort, as needed. The law enforcement agency that employs the officer involved in one of these situations shall be designated as the "Lead Agency" for the investigation. If a situation involves more than one agency, the Lead Agency shall be the agency that initiated the enforcement action. The Department of Public Safety, New Mexico State Police Division, reserves the right to be designated Lead Agency for incidents involving its personnel. If the law enforcement agencies cannot agree on a Lead Agency, they agree to seek direction from the local District Attorney's Office to designate the Lead

Agency.

- E. Task Force members will respond to the designated Command Post location for the incident within one hour of notification. Upon arrival, the Task Force members will await instructions and an Incident Briefing which will begin as soon as possible but not before all Task Force Members are present. It will be the responsibility of the Lead Agency's on-scene investigations supervisor to insure all members are present and to determine when briefings will be conducted. The initial Task Force briefing will include: all Primary Task Force Investigators and Investigations supervisor, Primary Crime Scene Investigators and Crime Scene Investigations Supervisor, assisting investigators, the representative/s from the District Attorney's office and the representative/s from the Office of Medical Investigator. In those instances where Albuquerque Police Department is the Lead Agency, Albuquerque Police Department's counsel and the City of Albuquerque Independent Review Officer (or designee) may be present at the initial Task Force briefing but the briefing shall not be delayed if they are not present on scene. An Executive Briefing may follow the initial Task Force briefing. The Primary Investigators will designate a representative to provide the Executive Briefing and any subsequent briefings.
- F. The Task Force is responsible for conducting a thorough and appropriate investigation of each event it is called out to investigate. The responsibilities include:
- Gathering preliminary information from officers and witnesses.
  - Conducting thorough canvasses of the area of the incident to insure all potential witnesses are contacted and interviewed and all potential recordings of the incident are located and reviewed. All interviews and any other evidence collected during canvassing will be documented and entered into evidence with the Lead Agency.
  - Conducting and documenting recorded interviews of all involved personnel, with all recordings and documentation provided to the Lead Agency.
  - Requesting, obtaining and executing all necessary search and/or arrest warrants related to the incident.
  - Assisting with death notification to the next of kin upon the request of the Lead Agency. Deceased parties will not be publicly identified prior to next of kin death notification.
  - Reviewing the incident facts to determine the appropriate date and time at which information may be released to the public and media, while focusing on maintaining the integrity of the investigation.
  - The Head of the Lead Agency will have the final decision on the release of any information.
  - Officers who used deadly force will be interviewed in accordance with the employing agency's policies.

- The Primary Investigator for the Lead Agency should notify the assisting Primary Investigator/s of any information that is going to be released to the public prior to its release.
  - The Primary Investigators will conduct a debriefing for other Task Force members prior to leaving the scene of an incident and at each stage of the investigation as they deem necessary.
  - The Lead Agency will compile all necessary reports and documents and submit these as a completed case to the District Attorney's office in a timely manner.
- G. Each agency participating in these investigations shall be responsible for any associated costs required by their own personnel (i.e. salaries and overtime pay). Each agency will make available to these investigations the use of its equipment and facilities as requested/required by the multi-agency Task Force.
- H. The Public Information Officer duties will be performed by the Lead Agency, unless otherwise agreed to by all parties.
- I. Any law enforcement agency within the jurisdiction of Bernalillo County or the City of Rio Rancho, which is not a party to this MOA, may request an investigation by the Task Force of any Officer Involved Shooting, Serious Use of Force, or In-Custody Death. In addition, any law enforcement agency from outside the jurisdiction of Bernalillo County or the City of Rio Rancho may request an investigation by this Task Force if one of its officers is involved in any of the above situations within Bernalillo County or the City of Rio Rancho. The determination of the Lead Agency in these cases will be made by the Task Force supervisors. Any disagreements in this determination will be referred to the local District Attorney or his/her designee for final designation.

## **2. INTERNAL AFFAIRS INVESTIGATION**

Nothing in this agreement shall prevent or limit any law enforcement agency from conducting a separate internal affairs investigation of officer-related situations or incidents. It is noted that this Task Force in no way is to be utilized as an internal affairs investigations unit. Each agency agrees to conduct its own administrative investigation utilizing proper personnel, separate and independent of the criminal investigation by the Task Force. At no time is the information obtained during the course of the internal investigation to be revealed to the Task Force investigators.

## **3. REVIEW, REVISION AND TERMINATION OF MOA**

This MOA shall remain in effect unless or until it is terminated by the participating agencies. Any request to modify or revise this agreement must be done in writing and must be agreed to by all the undersigned

parties. Any agency may terminate its participation in this MOA by written notification to all participating agencies.

4. **DISTRIBUTION OF PROPERTY OR SURPLUS FUNDS**

No property will be acquired as a result of the MOA. No surplus funds will be available as a result of this MOA as there are no funds that will be distributed.

5. **APPLICABLE LAW AND LIABILITY**

This MOA shall be governed by the laws of the State of New Mexico, and the parties shall comply with all applicable laws, ordinances and codes of the State. If a term of this agreement is inconsistent with such authority, then the term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect. As among the parties, each shall be solely responsible, only as permitted by law, for any liability arising from personal injury or damages to persons or property occasioned by its employees, officials or agents in performance of this MOA and each is subject to the immunities and limits of the New Mexico Tort Claims Act.

IN WITNESS WHEREOF, the parties have executed this Agreement which becomes effective as of the date of approval by the Department of Finance and Administration.

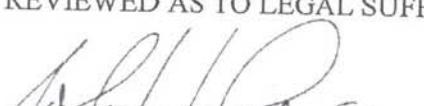
  
\_\_\_\_\_  
Gregory J. Fouratt, Cabinet Secretary  
New Mexico Department of Public Safety

9/18/14  
Date

  
\_\_\_\_\_  
Pete N. Kassetas, State Police Chief  
New Mexico Department of Public Safety

9/18/14

REVIEWED AS TO LEGAL SUFFICIENCY:

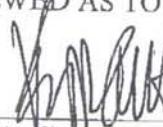
  
\_\_\_\_\_  
Amy Orlando, General Counsel  
New Mexico Department of Public Safety

10.7.14  
Date

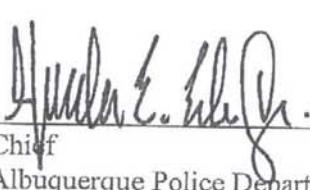
  
\_\_\_\_\_  
Sheriff  
Bernalillo County Sheriff's Department

9.25.14  
Date

REVIEWED AS TO LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Randy Audio  
Bernalillo County Sheriff's Department

9/25/14  
Date

  
\_\_\_\_\_  
Chief  
Albuquerque Police Department

9/22/2014  
Date

REVIEWED AS TO LEGAL SUFFICIENCY:

Kathryn Levy  
(Name) Kathryn Levy, Deputy City Attorney  
Albuquerque Police Department

9-22-14  
Date

Michael Geier  
Chief  
Rio Rancho Police Department

9/28/14  
Date

REVIEWED AS TO LEGAL SUFFICIENCY:

MICHAEL GEIER  
(Name)  
Rio Rancho Police Department

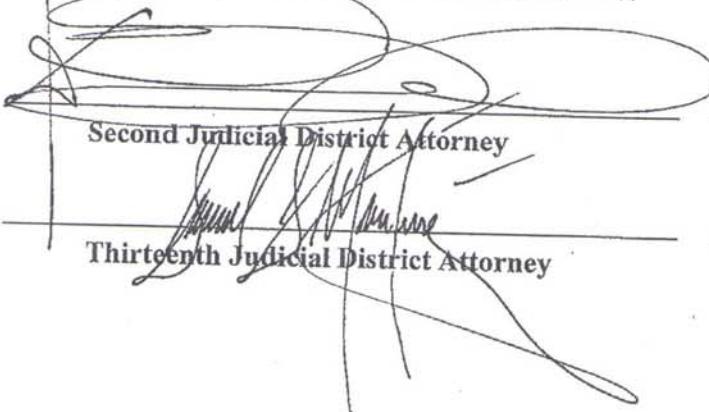
9/29/14  
Date

Jennifer Veachison  
City Attorney  
City of Rio Rancho

10/1/2014  
Date

## ROLE OF DISTRICT ATTORNEY

The District Attorney's Office shall send a senior prosecutor to the scene of the investigation in the three delineated situations identified in the Memorandum of Agreement. If requested by the prosecutor, a DA investigator shall also be at the scene as an aide to the prosecutor. The prosecutor shall provide legal advice at the scene.



Second Judicial District Attorney  
Thirteenth Judicial District Attorney

10/8/14  
Date  
9/29/14 -  
Date

## **CALL-OUT PROCEDURES AND PROTOCOL**

### **OFFICER-INVOLVED SHOOTING/SERIOUS USE OF FORCE/IN-CUSTODY DEATH INCIDENT INVESTIGATIONS**

When an incident occurs requiring the activation of the NM Department of Public Safety/Bernalillo County/Albuquerque/Rio Rancho Task Force, please attempt to contact the following personnel from each agency in the ORDER LISTED with information on where the incident has occurred and where staging is being held. In turn, the supervisor contacted will activate task force members to respond to the scene.

#### **NEW MEXICO STATE POLICE:**

- |         |              |            |
|---------|--------------|------------|
| • Name: | Ph: (Office) | Ph: (Cell) |
| • Name: | Ph: (Office) | Ph: (Cell) |

#### **BERNALILLO COUNTY SHERIFF'S DEPARTMENT:**

- |         |              |            |
|---------|--------------|------------|
| • Name: | Ph: (Office) | Ph: (Cell) |
|---------|--------------|------------|

#### **ALBUQUERQUE POLICE DEPARTMENT:**

- |         |              |            |
|---------|--------------|------------|
| • Name: | Ph: (Office) | Ph: (Cell) |
| • Name: | Ph: (Office) | Ph: (Cell) |

#### **RIO RANCHO POLICE DEPARTMENT:**

- |         |              |            |
|---------|--------------|------------|
| • Name: | Ph: (Office) | Ph: (Cell) |
| • Name: | Ph: (Office) | Ph: (Cell) |

- i) number of individuals unarmed;
- j) number of individuals injured during arrest, including APD and other law enforcement personnel;
- k) number of individuals requiring hospitalization, including APD and other law enforcement personnel;
- l) demographic category; and
- m) geographic data, including street, location, or Area Command.

80. APD shall be responsible for maintaining a reliable and accurate tracking system

on all officers' use of force; all force investigations carried out by supervisors, the Internal Affairs Bureau, or Multi-Agency Task Force; and all force reviews conducted by the Force Review Board. APD shall integrate the use of force tracking system with the Early Intervention System database and shall utilize the tracking system to collect and analyze use of force data to prepare the Use of Force Annual Report and other reports, as necessary.

#### **H. Multi-Agency Task Force**

81. APD shall continue to participate in the Multi-Agency Task Force for as long as the Memorandum of Understanding continues to exist. APD agrees to confer with participating jurisdictions to ensure that inter-governmental agreements that govern the Multi-Agency Task Force are current and effective. APD shall ensure that the inter-governmental agreements are consistent with this Agreement.

82. APD agrees to consult with participating jurisdictions to establish investigative protocols for the Multi-Agency Task Force. The protocols shall clearly define the purpose of the Multi-Agency Task Force; describe the roles and responsibilities of participating agencies, including the role of the lead investigative agency; and provide for ongoing coordination among participating agencies and consultation with pertinent prosecuting authorities.

83. APD agrees to consult and coordinate with the Multi-Agency Task Force on the release of evidence, including video recordings of uses of force, and dissemination of information to preserve the integrity of active criminal investigations involving APD personnel.

84. APD agrees to participate in all briefings of incidents involving APD personnel that are investigated by the Multi-Agency Task Force.

85. If the Memorandum of Understanding governing the Multi-Agency Task Force expires or otherwise terminates, or APD withdraws from the Multi-Agency Task Force, APD shall perform all investigations that would have otherwise been conducted pursuant to the Memorandum of Understanding. This Agreement does not prevent APD from entering into other investigative Memoranda of Understanding with other law enforcement agencies to conduct criminal investigation of officer-involved shootings, serious uses of force, and in-custody deaths.

#### **I. Use of Force Training**

86. APD will review all use of force policies and training to ensure they incorporate, and are consistent with, the Constitution and provisions of this Agreement. APD shall also provide all APD officers with 40 hours of use of force training within 12 months of the Effective Date, and 24 hours of use of force training on at least an annual basis thereafter, including, as necessary, training on developments in applicable law and APD policy.

87. APD's use of force training for all officers shall be based upon constitutional principles and APD policy and shall include the following topics:

- a) search and seizure law, including the Fourth Amendment and related law;
- b) APD's use of force policy, use of force reporting requirements, and the importance of properly documenting use of force incidents;